

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

APR 04 2003

OFFICE OF
MANAGING DIRECTOR

James L. Oyster
108 Oyster Lane
Castleton, Virginia 22716-2839

Re: Jose J. Arzuaga and Juan G. Padin d/b/a Signal Television
Request for Refund of a Hearing Fee
Fee Control No. 00000RROG -03-074

Dear Mr. Oyster:

This responds to your request, submitted February 14, 2003, on behalf of Signal Television, for a refund of the \$6,760.00 hearing fee paid on September 29, 1992 in connection with its January 2, 1992 application for a new television station in Mayaguez, Puerto Rico. You contend that a refund is appropriate, pursuant to 47 C.F.R. § 1.1113(b), because Signal's application was granted without being designated for hearing.

At the time that Signal filed its application for a new television station, the Commission's practice was to resolve mutually exclusive broadcast applications by comparative hearings. To defray the costs of such hearings, applicants were required to pay a hearing fee. *See* 47 U.S.C. § 158. The rules then in effect required payment of the hearing fee by the date specified in a Public Notice announcing the acceptance for filing of mutually exclusive applications. *See* 47 C.F.R. § 73.3572(c)(1), (c)(2) (1991). *See also Proposals To Reform the Commission's Comparative Hearing Process*, 6 FCC Rcd 157, 158 (1990). The rules then in effect also provided for a refund of the hearing fee, if an application is granted without being designated for comparative hearing. 47 C.F.R. § 1.1111(c) (1991).¹

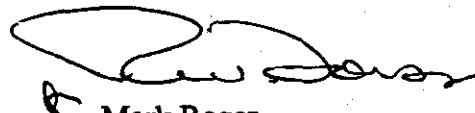
Signal's application for a new television broadcast station on channel 16 at Mayaguez, Puerto Rico (File No. BPCT-920102KE) was mutually exclusive with the renewal application of Bay Broadcasting, Inc., the licensee of WTRA(TV), Channel 16, Mayaguez (File No. BRCT-92013KP). You indicate, and our records confirm, that on September 29, 1992 Signal paid the hearing fee, as directed in the Commission's Public Notice, Report No. 15307 (released July 15, 1992), but that its application was never designated for comparative hearing with the renewal application filed by Bay

¹ Section 1.1111 was subsequently renumbered to Section 1.1113. That provision was later amended to reflect that comparative hearings are no longer required to resolve mutually exclusive applications for commercial broadcast licenses. *See* 47 C.F.R. 1.1113(b). *See also* 47 U.S.C. §§309(j), 309(k), 309(l).

Broadcasting.² In 1999, the Commission cancelled the license for channel 16, pursuant to 47 U.S.C. § 312(g), because of the licensee's inactivity for twelve consecutive months, and dismissed the renewal application. *Carlos J. Lastra, Trustee For Bay Broadcasting Corp*, 16 FCC Rcd 17268 (2001), *affirmed sub nom. Aerco Broadcasting Corp, v. FCC*, (D.C. Cir. 01-1446) (Nov. 21, 2002). Following the court's affirmance of the dismissal of Bay Broadcasting's renewal application, the Commission granted Signal's pending application for a new television station on channel 16. *Broadcast Actions* (Report No. 45408, rel. Jan. 24, 2003). In these circumstances Signal is entitled to a refund of the previously paid hearing fee.

A check made payable to the maker of the original check and drawn in the amount of \$6,760.00, will be sent to you at the earliest practicable time. If you have any questions concerning this letter, you may call the Revenue And Receivables Operations Group at (202) 418-1995.

Sincerely,



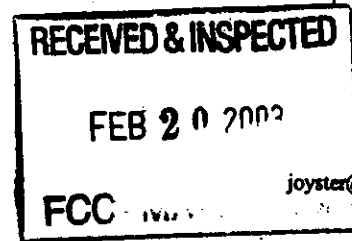
Mark Reger
Chief Financial Officer

² When the renewal application for channel 16 was filed on January 31, 1992, broadcasters were subject to comparative renewal proceedings if mutually exclusive applications were filed. Broadcast licensees filing renewal applications after May 1, 1995 are not subject to comparative renewal proceedings. See 47 U.S.C. 309(k) (directing that the Commission grant a renewal application if certain statutory renewal standards are satisfied); Section 204(c) of the Telecommunications Act of 1996 (providing that Section 309(k) is applicable to renewal applications filed after May 1, 1995). Because Signal's application for a new station on channel 16 was accepted for filing and was mutually exclusive with the 1992 renewal application, a comparative hearing would have been required here, if that renewal application had remained viable.

00000 RROG-03-074

LAW OFFICES
JAMES L. OYSTER
108 OYSTER LANE
CASTLETON, VIRGINIA 22716-2839
(540) 937-4800

FAX (540) 937-2148



February 14, 2003

Managing Director
Federal Communications Commission
445 12th Street, SW, Room 1A625
Washington, DC 20554

Re: Request for Refund of Hearing Fee

Gentlemen:

This is to request on behalf of Jose J. Arzuaga and Juan G. Padin, d/b/a Signal Television, permittee of a new television broadcast station on Channel 16 at Mayaguez, PR (BPCT-19920102KE)(Facility ID 60357), that the hearing fee submitted in connection with that application be refunded in accordance with Section 1.1113(b) of the Commission's Rules. Specifically, the application of Signal Television was granted without being designated for hearing (Broadcast Actions, released January 24, 2003, REPORT NO. 45408). This was the consequence of the dismissal of the competing application, which dismissal is now final, court review having been denied (see attached Order).

Accordingly, the permittee hereby requests a return of its hearing fee in the amount of \$6,760.00. The fee should be forwarded to the undersigned as counsel for Signal Television.

Should any additional information be desired regarding this matter, please communicate with this office.

Very Truly Yours,


James L. Oyster

Counsel for Signal Television

RECEIVED FEB 21 2003

FEDERAL COMMUNICATIONS COMMISSION
FEE PROCESSING FORM



Please read instructions on back of this form before completing it. Section I MUST be completed. If you are applying for concurrent actions which require you to list more than one Fee Type Code, you must also complete Section II. This form must accompany all payments. Only one Fee Processing Form may be submitted per application or filing. Please type or print fully. All required blocks must be completed or application/filing will be returned without action.

SECTION I

APPLICANT NAME (last, first, middle initial)

Jose J. Arzuaga and Juan G. Padin, d/b/a Signal Broadcasting

MAILING ADDRESS (Line 1) (Maximum 65 characters - refer to instruction (2) on reverse of form)
P.O. Box 980

MAILING ADDRESS (Line 2) (if required) (Maximum 65 characters)

CITY
Quebradillas

STATE OR COUNTRY (if foreign address)

ZIP CODE

CALL SIGN OR OTHER FCC IDENTIFIER (if applicable)

Puerto Rico

00678

920102KE

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in FCC Fee Filing Guides. Enter in Column (B) the Fee Multiple, if applicable. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number entered in Column (B), if any.

(A)

(B)

(C)

FEE TYPE CODE			
(1)	M	W	T

FEE MULTIPLE (if required)			

FEE DUE FOR FEE TYPE CODE IN COLUMN (A)
\$ 6,760.00

FOR FCC USE ONLY

SECTION II

To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

(A)

(B)

(C)

FOR FCC USE ONLY

FEE TYPE CODE			
(2)			

FEE MULTIPLE (if required)			

FEE DUE FOR FEE TYPE CODE IN COLUMN (A)
\$

FEE TYPE CODE			
(3)			

FEE MULTIPLE (if required)			

FEE DUE FOR FEE TYPE CODE IN COLUMN (A)
\$

FEE TYPE CODE			
(4)			

FEE MULTIPLE (if required)			

FEE DUE FOR FEE TYPE CODE IN COLUMN (A)
\$

FEE TYPE CODE			
(5)			

FEE MULTIPLE (if required)			

FEE DUE FOR FEE TYPE CODE IN COLUMN (A)
\$

ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (5), AND ENTER THE TOTAL HERE.
THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.

TOTAL AMOUNT REMITTED WITH THIS APPLICATION OR FILING
\$ 6,760.00

FOR FCC USE ONLY

Signal Broadcasting
P.O. Box 980
Quebradillas, Puerto Rico 00742-0980

September 29, 1992

Federal Communications Commission
Mass Media Services
P.O. Box 358170
Pittsburgh, PA 15251-5170

Re: Hearing Fee, Application for new television broadcast station, Mayaguez, Puerto Rico

Gentlemen:

Transmitted herewith on behalf of Jose J. Arzuaga and Juan G. Padin, d/b/a Signal Broadcasting, applicant for a new television station on Channel 16 at Mayaguez, Puerto Rico (BPCT-920102KE), is its hearing fee payment in the amount of \$6,760.00. This transmittal letter is submitted in triplicate pursuant to the Commission's Public Notice, Report No. 15307, released July 15, 1992.

The referenced application is mutually exclusive with the renewal application of Bay Broadcasting, Inc., licensee of WTRA (TV), Channel 16, Mayaguez, Puerto Rico (BRCT-920131KP).

Enclosed is a copy of this letter together with a stamped self-addressed envelope which it is requested be returned to the undersigned as evidence of receipt of the application.

Should any additional information be desired regarding this matter, please communicate with this office.

Very Truly Yours,

Jose J. Arzuaga

EXTRA
COPY

Signal Broadcasting
P.O. Box 980
Quebradillas, Puerto Rico 00742-0980

September 29, 1992

Federal Communications Commission
Mass Media Services
P.O. Box 358170
Pittsburgh, PA 15251-5170

Re: Fearing Fee, Application for new television broadcast station, Mayaguez, Puerto Rico.

Gentlemen:

Transmitted herewith on behalf of Jose J. Arzuaga and Juan G. Padin, d/b/a Signal Broadcasting, applicant for a new television station on Channel 16 at Mayaguez, Puerto Rico (BRCT-920131KP), is its hearing fee payment in the amount of \$6,760.00. This transmittal letter is submitted in triplicate pursuant to the Commission's Public Notice, Report No. 15307, released July 15, 1992.

The referenced application is mutually exclusive with the renewal application of Bay Broadcasting, Inc., licensee of WRAA (TV), Channel 16, Mayaguez, Puerto Rico (BRCT-920131KP).

Enclosed is a copy of this letter together with a stamped and addressed envelope which it is requested be returned to the undersigned as evidence of receipt of the application.

Should any additional information be desired regarding this matter, please communicate with this office.

Very Truly Yours,


Jose J. Arzuaga

JOSE ARZUAGA Y/O
IDALIA ARZUAGA

No. 071

Sept. 29 1992

101-201
215

PAY TO THE
ORDER OF

F.C.C.

\$ 6,760.00

*Seis Mil Setecientos Sesenta con-----xx/100 DOLLARS



BANCO POPULAR DE PUERTO RICO

QUEBRADILLAS, PUERTO RICO

Ch. 16 Mayaguez, PR

FOR Hearing Fee

⑆02150201⑆ 084⑈509759⑈ 007⑆

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 01-1466

September Term, 2002

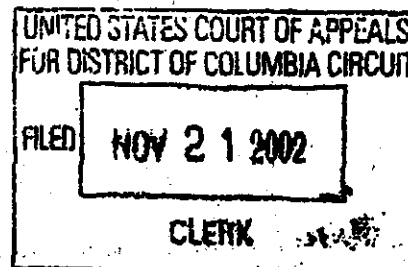
Aerco Broadcasting Corporation, Appellant

v.

Federal Communications Commission, Appellee

Jose J. Arzuaga d/b/a Signal Television, and

Juan G. Padin, d/b/a Signal Television, Intervenor



Appeal from an Order of the Federal Communications Commission

Before: SENTELLE and HENDERSON, Circuit Judges, and SILBERMAN, Senior Circuit Judge

JUDGMENT

This appeal was considered on the record from the Federal Communications Commission and on the briefs of the parties. It is

ORDERED and ADJUDGED that the order of the Federal Communications Commission appealed from in this cause is hereby affirmed for the reasons stated in *In re Carlos J. Lastra et al.*, 16 FCC Rcd 17268 (2001). Accordingly, appellant does not have standing to pursue its claim. Even if the Court were to rule in its favor, Aerco's alleged injury could not be redressed as there is not an active license left to assign. While the Commission did take an inordinate amount of time to address the assignment application, this delay did not impact the trustee's ability to return the station to the air. The subject license was automatically forfeited as a result of WTRA-TV's inactivity over a 12-month period ending February 9, 1997. See 47 U.S.C. § 312(g).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate until seven days after resolution of any timely petition for rehearing or rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

MANDATE	
Pursuant to the provisions of Fed. R. App. Proc. 41(a)	
ISSUED	11/23/03
BY:	[Signature]
ATTACHED:	<input type="checkbox"/> Amending Order <input type="checkbox"/> Opinion <input type="checkbox"/> Order on Costs

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY:

[Signature]
Michael C. McGrail
Deputy Clerk